

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

Per the final Office Action, Applicant appreciates the allowance of claims 8-10, 17, 21, 23, 24, 27, 30, 32, 33, 34 and 35.

The final Office Action also indicated the following rejections: claims 25, 38 and 39 under 35 U.S.C. § 112(2) for lack of antecedent wording; claims 1, 6, 11, 15 and 20 are rejected under 35 U.S.C. § 102(e) over *Bingel et al.* (U.S. Patent No. 6,173,021); claims 2 and 26 are rejected under 35 U.S.C. § 103(a) over *Szechenyi* (U.S. Patent No. 5,271,037) in view of *Sands* (U.S. Patent No. 6,134,283); claims 3 and 28 are rejected under § 103(a) over *Szechenyi* in view of *Sands* and further in view of *Pfeil et al.* (U.S. Patent No. 6,160,511); claims 4 and 19 are rejected under § 103(a) over *Bingel* in view of *Gitlin* (U.S. Patent No. 4,995,104); claim 5 is rejected under § 103(a) over *Bingel* in view of *Gitlin* and further in view of *Sands*; claims 7, 16 and 25 are rejected under § 103(a) over *Bingel* in view of *Sands*; claims 12 and 13 are rejected under § 103(a) over *Bingel*; claim 14 is rejected under § 103(a) over *Bingel* in view of *Terry* (U.S. Patent No. 6,055,297); claim 18 is rejected under § 103(a) over *Bingel* in view of *Terry* and further in view of *Pfeil*; claim 22 is rejected under § 103(a) over *Bingel* in view of *Cioffi* (U.S. Patent No. 5,887,032); claim 29 is rejected under § 103(a) over *Bingel* in view of *Sands* and further in view of *Gitlin*; claim 40 (corresponding to original claim 4) remains rejected under § 103(a) over *Szechenyi* in view of *Gitlin*; and claim 31 is rejected under § 103(a) over *Szechenyi* in view of *Terry*.

With respect to the Notice of Non-compliance in paragraph 1 of the Advisory Action, Applicant has corrected the status identifier for claim 21 as indicated by the Examiner. Applicant has maintained the previous amendment filed on March 1, 2004, which in view of the correction, is now believed to be in condition to be entered.

Regarding the Section 112(2) rejection of claim 25, Applicant submits that in view of the above and paragraph 2 of the Advisory Action where the Examiner acknowledges that the amendment would have been persuasive had the amendment been entered, the rejection is now overcome and should be withdrawn.

Applicant respectfully traverses each of the prior art rejections (Sections 102(e) and 103(a)) relying upon the teachings of *Bingel* because *Bingel* fails to correspond to the claimed invention. *Bingel* merely teaches that the interference filter may be implemented in a housing that is separate from a modem; *Bingel* does not disclose or suggest that the filter would be at a location, *i.e.*, site, remote from the receiver. *Bingel*'s teaching that the filter apparatus is outside the housing of the modem is apparent via the illustrated single line 7 of Fig. 1 and because the filter apparatus is co-located at the same site. At column 3, lines 62-64, *Bingel* also teaches embodiments where the detector of the interference filter apparatus is located "in proximity" to the twisted pair and consequently with the receiver. This interpretation is consistent with the embodiments described and claimed by *Bingel* as *Bingel* expressly teaches and claims that the interference canceler and the *Bingel* receiver are to be co-located at the customer's premises (*see, e.g.*, Fig. 1 of *Bingel*). For example, as set forth in each of *Bingel*'s independent claims, the entire *Bingel* apparatus is to be "located at the customer's premises" and the corresponding method is to be practiced "at the customer's premises." *See, e.g.*, *Bingel*'s claims 1, 2, 3, 13, 14 and 15. As set forth in the MPEP (*e.g.*, § 706.03(d)), the claim terminology is to carry a plain meaning that is consistent with the Specification. Applying this rule, the Examiner's interpretation of Fig. 1 is untenable. In view thereof, Applicant submits that the prior art rejections should be removed.

Applicant respectfully traverses the Section 103(a) rejection of claims 2 and 26 over *Szechenyi* in view of *Sands*, because the proposed modification of *Szechenyi* would undermine the purpose and destroy the operation of *Szechenyi*'s teachings. *See, e.g.*, MPEP § 2143.01 (A § 103 rejection cannot be maintained when the asserted modification undermines the implementation or purpose of the main reference.) As acknowledged by the Examiner, *Szechenyi* teaches a specific algorithm for simulating a crosstalk signal, which is used by the *Szechenyi* reference for crosstalk compensation so that synchronization to the received signal can be achieved (*see, e.g.*, Title, Abstract and Summary). The Examiner proposes modifying this algorithm by adding, or using as a replacement, the error estimation formula of *Sands*. While the Office Action somehow concludes that this new design would further reduce crosstalk, the Examiner has not cited any evidence supporting this notion that a skilled artisan would be led to change a design

that compensates for crosstalk in one manner with an entirely different approach for compensating for crosstalk. As best could be determined, the proposed modification as an addition would result in an overcompensation and, used as a replacement, would result in an inoperable device having a purpose contrary to the Szechenyi teaching. As set forth in MPEP § 2143.01, such a rejection cannot stand.

The above amendments to the independent claims changed the term "location" to "site" which are synonymous in the context of Applicant's specification; therefore, there is no change in scope or intent to narrow these claims.

In view of the above, the rejections have been addressed and/or overcome and each of the pending claims is now believed to be in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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